

Serial No.: 09/880,723
Docket No.: 70655.7800

REMARKS

Applicant hereby responds to the Office Action dated May 7, 2004 within the shortened three month statutory period for response. The Examiner rejects claims 1-47. Upon entry of the foregoing amendments, Applicant amends claim 10 and 47, so all of claims 1-47 remain pending in the application. Support for the various amendments may be found in the originally filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

The Examiner objects to claim 10 due to informalities. Specifically, the Examiner points out that claims must be written in single sentence format. Claim 10 has been amended to bring it into compliance with Patent Office rules.

The Examiner next rejects claims 4, 5 and 42 under 35 U.S.C. 112 as being indefinite. More specifically, the Examiner states that the term "reputation" is used in the claims to mean "public estimation of someone such as, character, name, report, repute or informal repute. The Examiner states that the accepted U.S. meaning of "reputation" is "a credit check". Applicant respectfully asserts that the specification clearly states that "reputation information" comprises data regarding a customer's character and reliability. The specification states, "The e-commerce server 400 may also request 752 reputation information (such as their credit worthiness, record of past payment, numbers of product returns and other reputation influencing information)..." (Page 12, Lines 21-23). As such, Applicant asserts that the written description clearly redefines the claim term.

The Examiner next rejects claim 47 under 35 U.S.C. 102(e) as being unpatentable over Musgrove (U.S. 6,535,880 B1). Applicant respectfully traverses this rejection. Applicant asserts that Musgrove simply discloses "executing a buy procedure on the merchant server for purchase of the selected products from the merchant server...." However, Musgrove does not disclose or suggest the injection process of the presently claimed invention which includes automatically populating the relevant merchant order form for the product, namely, as required by independent claim 47, "injecting at least one product order to said merchant associated with at least one product selected by a consumer without directing said consumer to said merchant's site, wherein said injecting includes populating an order form of said merchant related to said product order."

The Examiner next rejects claims 1, 2, 4-6, 9-27, 31, 33-36, 38-40 and 42-46 under 35 U.S.C. 103(a) as being unpatentable over Hoang (U.S. 6,499,052 B1) in view of Ferguson (U.S.

Serial No.: 09/880,723
Docket No.: 70655.7800

5,966,697). Applicant respectfully traverses these rejections. Regarding independent claims 1, 31 and 39, the Examiner contends that Hoang teaches a method of processing product orders from a consumer via a network to allow the consumer to order at least one product from at least one merchant using a consistent user interface. The Examiner acknowledges that Hoang does not specifically disclose and teach displaying product information from at least one merchant; and injecting at least one product order to at least one selected merchant associated with said at least one selected product in said universal shopping cart. However, the Examiner contends that Ferguson does teach the elements not taught in Hoang, therefore it would have been obvious to combine the two cited references.

While Hoang may disclose generally processing product orders from a consumer via a network to allow the consumer to order at least one product from at least one merchant using a consistent user interface, Ferguson does not disclose or teach the remaining elements. The present invention goes beyond traditional shopping portals and the teachings of Ferguson.

The injection process of the present invention includes, for example, the ability to inject customer information directly to one or more merchant's purchase forms. As such, the sale transaction is consummated by the merchant directly as if the customer were placing the order on the merchant's website. Credit instrument processing may be carried out by the merchant. As disclosed in the present invention at Figure 27 and page 25, lines 18-20, "...if decision block 2525 determines that automatic payments are supported, then an automatic payment is placed with the appropriate merchant server...". In contrast, the virtual shopping cart as disclosed in Ferguson is limited to processing the purchase transaction independent of the merchant. The merchant does not consummate the sale, rather the virtual shopping cart as disclosed in Ferguson processes the credit instrument, produces a confirmation number, generates a confirmation of the sale, etc. The merchant is not made aware of the sale until notified by the virtual shopping cart system. According to Ferguson:

"In step 818, the merchant is notified of the sale, the selected products, and the billing information such as the credit card company, the transaction number, and the authorization number. The information may be provided to the merchant by any conventional means such as electronic mail or postal mail."
(Column 11, Lines 15-20)

Serial No.: 09/880,723
Docket No.: 70655.7800

As such, Hoang and/or Ferguson does not disclose or suggest, inter alia, "injecting at least one product order to at least one selected merchant associated with said at least one selected product in said universal shopping cart", or similar injecting elements as disclosed in the independent claims.

Furthermore, Ferguson may disclose a known single interface providing access and transactional capabilities between a consumer and one or more affiliated merchants. However, the injection system of the presently claimed invention provides a single interface with transactional capabilities between a consumer and affiliated as well as non-affiliated merchants. As set forth on page 4, Lines 33-34 of the present specification, "The order injection system places orders for products contained within the USC from affiliated and non-affiliated merchants." In other words, in the present invention, customers would not be limited to transacting with a limited number of participating merchants, as in Ferguson. The ability to work with affiliated and non-affiliated merchants is a substantial improvement over the prior art because it further reduces or eliminates the need for merchants to modify their hardware and/or software to accommodate the system of the present invention. In contrast, as disclosed in Ferguson, participating merchants must modify their hardware and/or software. The ability, as disclosed in the present invention, to integrate non-affiliated merchants into a shopping systems is evidenced by the following:

The present invention provides, for example, seamless integration of any number of merchant products from any number of online affiliated and/or non-affiliated merchants into a single interface. In contrast, the universal shopping cart disclosed in Ferguson is restricting in that customers may only choose products from affiliated merchants and merchants who wish to be affiliated must modify and/or add hardware and/or software to their existing infrastructure. This is evidenced by the additional databases and memory areas required by Ferguson to store the additional merchant data, for example, Figure 2 of Ferguson and as explained in the Detailed Description which states at Column 4, Lines 20-28:

"The merchant B computer also includes a memory area which may store product data and user selection data. As discussed above, product data includes data which identifies products the merchant is offering for sale. In the illustrated embodiment, the merchant B computer also includes a memory area for storing

Serial No.: 09/880,723
Docket No.: 70655.7800

selection data from other merchants. In the illustrated embodiment, the merchant B computer stores data identifying products selected by the user from merchant A. In the illustrated embodiment, the selection data from merchant A is transferred from the merchant A computer to the merchant B computer."

The Examiner also rejects claims 2, 4-6, 9-27, 33-36, 38-39 and 42-45 which variously depend from the independent claims discussed above. As such, Applicant asserts that dependent claims 2, 4-6, 9-27, 33-36, 38-39 and 42-45 are differentiated from the cited prior art for at least the same reasons as set forth above.

The Examiner further rejects claims 3 and 32 under 35 U.S.C. 103(a) as being unpatentable over the combination of Hoang and Fergerson, as applied to claim 1 above and further in view of Jacobs. Applicant respectfully traverses these rejections. Applicant asserts that dependent claims 3 and 32 are differentiated from the cited prior art for at least the same reasons as set forth above for differentiating the independent claims from the prior art.

The Examiner further rejects claims 7, 8, 37 and 41 under 35 U.S.C. 103(a) as being unpatentable over the combination of Hoang and Ferguson, as applied to claims 1, 31 and 40 above and further in view of alexa.com. Applicant respectfully traverses these rejections. Applicant asserts that dependent claims 7, 8, 37 and 41 are differentiated from the cited prior art for at least the same reasons as set forth above for differentiating the independent claims from the prior art.

The Examiner further rejects claims 28-30 under 35 U.S.C. 103(a) as being unpatentable over the combination of Hoang and Ferguson, as applied to claim 1 above and further in view of Musgrove. Applicant respectfully traverses these rejections. Applicant asserts that dependent claims 28-30 are differentiated from the cited prior art for at least the same reasons as set forth above for differentiating the independent claims from the prior art.

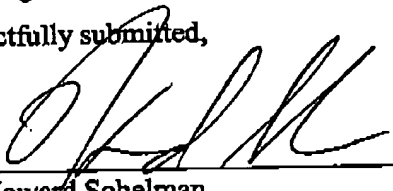
Applicant respectfully submits that the pending claims are in condition for allowance. No new matter is added in this Response. Reconsideration of the application is thus requested. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-2814. A duplicate copy of this sheet is enclosed.

Serial No.: 09/880,723
Docket No.: 70655.7800

Applicant invites the Office to telephone the undersigned if the Examiner has any questions regarding this Response or the present application in general.

Respectfully submitted,

Dated: August 4, 2004

By: 
Howard Sobelman
Reg. No. 39,038

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6228
Fax: 602-382-6070
Email: hsobelman@swlaw.com